

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Art Unit : 3728  
Examiner : Shian Tinh Nhan Luong  
Applicant : Julio Casanova  
Appln. No. : 10/789,858  
Filing Date : February 27, 2004  
Confirmation No. : 8485  
For : MODULAR BATTERY PACKAGE

Mail Stop Appeal Brief - Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

TRANSMITTAL OF APPEAL BRIEF  
(PATENT APPLICATION - 37 CFR §41.37)

1. Transmitted herewith is the APPEAL BRIEF in this application, with respect to the Notice of Appeal filed on April 19, 2007.

2. **STATUS OF APPLICANTS**

This application is on behalf of:

X  other than a small entity.

a small entity.

A verified statement:

is attached.

was already filed.

3. **FEE FOR FILING APPEAL BRIEF**

Pursuant to 35 USC §41(a)(6), the fee for filing the Appeal Brief is:

small entity \$250.00

X  other than a small entity \$500.00

Appeal Brief fee due: \$500.00

4. **EXTENSION OF TERM**

The proceedings herein are for a patent application and the provisions of 35 USC §41(a)(8) apply.

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*(complete (a) or (b), as applicable)*

- (a)   X   Applicant petitions for an extension of time under 37 CFR §1.136:

<u>Extension</u> <u>(months)</u>	<u>Fee for other than</u> <u>small entity</u>	<u>Fee for</u> <u>small entity</u>
<u>  X  </u> one month	\$120.00	\$60.00
<u>    </u> two months	\$450.00	\$225.00
<u>    </u> three months	\$1020.00	\$510.00
<u>    </u> four months	\$1590.00	\$795.00
<u>    </u> five months	\$2160.00	\$1080.00
		FEE: \$120.00

If an additional extension of time is required, please consider this a petition therefor.

*(check and complete the next item, if applicable)*

- An extension for \_\_\_\_\_ months has already been secured, and the fee paid therefor of \$\_\_\_\_\_ is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request: \$

*or*

- (b)      Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

**5. TOTAL FEE DUE**

The total fee due is:

Appeal Brief fee: \$500.00  
Extension fee (if any) \$120.00  
TOTAL FEE DUE: \$620.00

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**6. FEE PAYMENT**

\_\_\_\_ Attached is a check in the sum of \$ \_\_\_\_.

X Charge Account No. 16 2463 the sum of \$620.00.

A duplicate of this transmittal is attached.

**7. FEE DEFICIENCY**

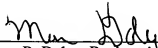
X If any additional extension and/or fee is required, this is a request therefor  
and to charge Account No. 16 2463.

*and/or*

X If any additional fee for claims is required, charge Account No.  
16 2463.

Respectfully submitted,

7/19/07  
\_\_\_\_\_  
Date

  
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APPEAL BRIEF (37 CFR §41.37)

This brief is in furtherance of the Notice of Appeal, filed in this case on April 19, 2007.

The fees required under 35 USC 41(a)(6), and any required petition for extension of time for filing this brief and fees therefor, are dealt with in the accompanying TRANSMITTAL OF APPEAL BRIEF.

This brief contains these items under the following headings, and in the order set forth below (37 CFR §41.37(c)):

- I. Real Party in Interest
- II. Related Appeals and Interferences
- III. Status of Claims
- IV. Status of Amendments
- V. Summary of Claimed Subject Matter
- VI. Grounds of Rejection to Be Reviewed on Appeal
- VII. Argument
- VIII. Conclusion

Appendix of Claims Involved in the Appeal

Evidence Appendix

Related Proceedings Appendix

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The final page of this brief bears the attorney's signature.

#### **I. Real Party in Interest**

The real party in interest in this application is Eveready Battery Company, Inc., the assignment to which was recorded at Reel 015038, Frame 0603.

#### **II. Related Appeals and Interferences**

There are no related appeals or interferences pending during this application.

#### **III. Status of Claims**

Claims 1-41 are pending in this application. An amendment of claim 41 was filed on June 19, 2007. The status of this amendment is discussed below in Section IV, Status of Amendments. Dependent claims 15-18 and 35-38 have been withdrawn from the present application. The rejection of claims 1-14, 19-34 and 39-41 are the subject of this appeal (along with a rejoinder of claims 15-18 and 35-38 should the claims under appeal be allowed).

#### **IV. Status of Amendments**

On June 19, 2007, Applicants submitted an amendment of claim 41 to correct a typographical error of claim 41. Before the amendment, claim 41 defined a method of packaging batteries that ended with the phrase "placing a cover over the at least two separate modules, wherein placing the cover comprises shrink-wrapping plastic one of the at least two separate modules." As is obvious from the above, the phrase "one of" should have been "over" as the cover is already recited as being over the at least two separate modules and the end of claim 41 is not grammatically correct. Nevertheless, the Examiner in the present application refused to enter this amendment because, according to the Examiner, such amendment "introduces new issues that would require further consideration and/or search." Nevertheless, Applicant will proceed with claim 41 as is as the Applicant submits that such a refusal of entering the amendment does not change the argument for allowability of claim 41.

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## **V. Summary of Claimed Subject Matter**

As described in the specification portion of the application (¶¶ 1-41), and illustrated in the related figures (FIGS. 1-10), the invention recited in the finally rejected claims relates to a modular battery package.

According to claim 1, one aspect of the present invention is to provide a battery package 10 (page 3, line 26) comprising at least two separate modules 12 (page 3, lines 27-28), with each module 12 (page 3, lines 27-28) including a base 16 (page 3, line 29) having a first face 18 (page 3, line 29) and a second face 20 (page 3, line 29). Each module 12 (page 3, lines 27-28) further includes at least one pocket 22 (page 3, line 30) extending outwardly from the first face 18 (page 3, line 29). The package 10 (page 3, line 26) also comprises at least one battery 24 (page 3, line 31) placed into each pocket 22 (page 3, line 30) and a cover 14 (page 3, line 28) placed over the at least two separate modules 12 (page 3, lines 27-28). Two of the at least two separate modules 12 (page 3, lines 27-28) have the first faces 18 (page 3, line 29) thereof facing each other, with at least one pocket 22 (page 3, line 30) of a first one of the two of the at least two separate modules 12 (page 3, lines 27-28) being located between a pair of pockets 22 (page 3, line 30) of a second one of the two of the at least two separate modules 12 (page 3, lines 27-28). The at least two separate modules 12 (page 3, lines 27-28) will easily separate upon removal of the cover 14 (page 3, line 28) from over the at least two separate modules 12 (page 3, lines 27-28). None of the modules 12 (page 3, lines 27-28) are able to be removed from within the cover 14 (page 3, line 28) while the cover 14 (page 3, line 28) is over all of the at least two separate modules 12 (page 3, lines 27-28).

According to claim 21, another aspect of the present invention is to provide a battery package 10 (page 3, line 26) comprising at least two separate modules 12 (page 3, lines 27-28), with each module 12 (page 3, lines 27-28) including a base 16 (page 3, line 29) having a first face 18 (page 3, line 29) and a second face 20 (page 3, line 29). Each module 12 (page 3, lines 27-28) further includes at least one pocket 22 (page 3, line 30) extending outwardly from the first face 18 (page 3, line 29). The package 10 (page 3, line 26) further comprises at least one battery 24 (page 3, line 31) placed into each pocket 22 (page 3, line 30) and a cover 14

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(page 3, line 28) placed over the at least two separate modules 12 (page 3, lines 27-28). Two of the at least two separate modules 12 (page 3, lines 27-28) have the first faces 18 (page 3, line 29) thereof facing each other, with at least one pocket 22 (page 3, line 30) of a first one of the two of the at least two separate modules 12 (page 3, lines 27-28) being located between a pair of pockets 22 (page 3, line 30) of a second one of the two of the at least two separate modules 12 (page 3, lines 27-28). The at least two separate modules 12 (page 3, lines 27-28) will easily separate upon removal of the cover 14 (page 3, line 28) from over the at least two separate modules 12 (page 3, lines 27-28). The cover 14 (page 3, line 28) comprises shrink wrap plastic.

According to claim 22, yet another aspect of the present invention is to provide a method of packaging batteries 24 (page 3, line 31) comprising providing at least two separate modules 12 (page 3, lines 27-28), with each module 12 (page 3, lines 27-28) including a base 16 (page 3, line 29) having a first face 18 (page 3, line 29) and a second face 20 (page 3, line 29) and with each module 12 (page 3, lines 27-28) further including at least one pocket 22 (page 3, line 30) extending outwardly from the first face 18 (page 3, line 29). The method further comprises placing at least one battery 24 (page 3, line 31) in each pocket 22 (page 3, line 30) and positioning the first face 18 (page 3, line 29) of at least two of the plurality of separate modules 12 (page 3, lines 27-28) facing each other, with at least one pocket 22 (page 3, line 30) of a first one of the at least two of the at least two separate modules 12 (page 3, lines 27-28) being located between a pair of pockets 22 (page 3, line 30) of a second one of the at least two of the at least two separate modules 12 (page 3, lines 27-28). The method also comprises placing a cover 14 (page 3, line 28) over the at least two separate modules 12 (page 3, lines 27-28). None of the modules 12 (page 3, lines 27-28) are able to be removed from within the cover 14 (page 3, line 28) while the cover 14 (page 3, line 28) is over all of the at least two separate modules 12 (page 3, lines 27-28).

According to claim 41, a further aspect of the present invention is to provide a method of packaging batteries 24 (page 3, line 31) comprising providing at least two separate modules 12 (page 3, lines 27-28), with each module 12 (page 3, lines 27-28) including a base 16 (page 3, line 29) having a first face 18 (page 3, line 29) and a second face 20 (page 3, line 29) and

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with each module 12 (page 3, lines 27-28) further including at least one pocket 22 (page 3, line 30) extending outwardly from the first face 18 (page 3, line 29). The method further comprises placing at least one battery 24 (page 3, line 31) in each pocket 22 (page 3, line 30) and positioning the first face 18 (page 3, line 29) of at least two of the plurality of separate modules 12 (page 3, lines 27-28) facing each other, with at least one pocket 22 (page 3, line 30) of a first one of the at least two of the at least two separate modules 12 (page 3, lines 27-28) being located between a pair of pockets 22 (page 3, line 30) of a second one of the at least two of the at least two separate modules 12 (page 3, lines 27-28). The method also comprises placing a cover 14 (page 3, line 28) over the at least two separate modules 12 (page 3, lines 27-28), wherein placing the cover 14 (page 3, line 28) comprises shrink wrapping plastic one of the at least two separate modules 12 (page 3, lines 27-28).

## **VI. Grounds of Rejection to Be Reviewed on Appeal**

Claims 1-14, 19, 20, 22-34, 39 and 40 have been rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement.

Claims 1-14, 19, 20, 22-34, 39 and 40 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite.

Claims 1, 3, 4, 6-11, 13, 14, 20, 23, 24, 26-31, 33, 34 and 40 have been rejected under 35 U.S.C. §103(a) as being unpatentable over PCT Publication No. WO 01/98170 to Casanova in view of U.S. Patent No. 3,743,084 to Douglas and/or U.S. Patent No. 6,253,920 to Källgren.

Claims 2, 12 and 32 have been rejected under 35 U.S.C. §103(a) as being unpatentable over PCT Publication No. WO 01/98170 to Casanova in view of U.S. Patent No. 3,743,084 to Douglas and/or U.S. Patent No. 6,253,920 to Källgren and further in view of Official Notice.

Claims 1, 3-5, 10, 11, 13, 14, 19, 20, 22-25, 30, 31, 33, 34, 39 and 40 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Design Patent No. D479,126 to Kumakura et al. in view of U.S. Patent No. 3,743,084 to Douglas and/or U.S. Patent No. 6,253,920 to Källgren.

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Claims 2, 12 and 32 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Design Patent No. D479,126 to Kumakura et al. in view of U.S. Patent No. 3,743,084 to Douglas and/or U.S. Patent No. 6,253,920 to Källgren and further in view of Official Notice.

Claims 6-9 and 26-29 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Design Patent No. D479,126 to Kumakura et al. in view of U.S. Patent No. 3,743,084 to Douglas and/or U.S. Patent No. 6,253,920 to Källgren and further in view of PCT Publication No. WO 01/98170 to Casanova.

Claims 21 and 41 have been rejected under 35 U.S.C. §103(a) as being unpatentable over PCT Publication WO 01/98171 to Miller in view of U.S. Patent No. 6,253,920 to Källgren, U.S. Patent No. 5,957,358 to Getz et al. and U.S. Patent No. 3,743,084 to Douglas.

Claims 21 and 41 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Design Patent No. D479,126 to Kumakura et al. in view of U.S. Patent No. 6,253,920 to Källgren, U.S. Patent No. 5,957,358 to Getz et al. and U.S. Patent No. 3,743,084 to Douglas.

## **VII. Argument**

### **A. Rejection of Claims 1-14, 19, 20, 22-34, 39 and 40 Under 35 U.S.C. §112, First Paragraph, as Failing to Comply with the Written Description Requirement**

Claims 1-14, 19, 20, 22-34, 39 and 40 of this application have been rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. The standard for rejecting a claims as failing to comply with the written description requirement is described in MPEP §2163 as follows:

To satisfy the written description requirement, a patent specification must describe the claimed invention in sufficient detail that one skilled in the art can reasonably conclude that the inventor had possession of the claimed invention. See, e.g., *Moba, B.V. v. Diamond Automation, Inc.*, 325 F.3d 1306, 1319, 66 USPQ2d 1429, 1438 (Fed. Cir. 2003); *Vas-Cath, Inc. v. Mahurkar*, 935 F.2d at 1563, 19 USPQ2d at 1116.

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An applicant shows possession of the claimed invention by describing the claimed invention with all of its limitations using such descriptive means as words, structures, figures, diagrams, and formulas that fully set forth the claimed invention. *Lockwood v. American Airlines, Inc.*, 107 F.3d 1565, 1572, 41 USPQ2d 1961, 1966 (Fed. Cir. 1997).

Applicant submits that claims 1-14, 19, 20, 22-34, 39 and 40 of this application comply with the written description requirement of 35 U.S.C. §112, first paragraph.

Claims 1 and 22 had been amended in a response filed November 6, 2006 to state that “none of the modules are able to be removed from within the cover while the cover is over all of the at least two separate modules.” According to the final Office Action, “the shrink wrapped cover may provide wrapping only to the top, front, rear and bottom surfaces and render the side surfaces open for removal of the module.” See Page 2, Paragraph 1 of Office Action mailed December 20, 2007. Therefore, according to the final Office Action, “the new language introduced by Applicant is considered new matter is (sic) and is not permitted in the specification or claims.” Id. However, in paragraph [0027] of the present application, the present description clearly states that “[i]n the illustrated example, the cover 14 covers all six sides of the engaged modules 12.” The engaged modules 12 in the illustrated example only have six sides. Therefore, the specification as filed clearly discloses a cover over modules such that “none of the modules are able to be removed from within the cover while the cover is over all of the at least two separate modules.” Accordingly, Applicant submits that there is a written description for the subject matter of all of the claims 1 and 22. Claims 2-14, 19 and 20 depend from claim 1 and were not separately rejected as failing to comply with the written description requirement. Furthermore, claims 23-24, 39 and 40 depend from claim 22 and were not separately rejected as failing to comply with the written description requirement. Accordingly, Applicant submits that claims 1-14, 19, 20, 22-34, 39 and 40 comply with the written description requirement and that such a rejection should be withdrawn.

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**B. Rejection of Claims 1-14, 19, 20, 22-34, 39 and 40 Under 35 U.S.C. §112, Second Paragraph, as Being Indefinite**

Claims 1-14, 19, 20, 22-34, 39 and 40 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The second paragraph of 35 U.S.C. §112 states that claims must particularly point out and distinctly claim the invention. According to §2173 of the M.P.E.P., "[t]he primary purpose of this requirement of definiteness of claim language is to ensure that the scope of the claims is clear so the public is informed of the boundaries of what constitutes infringement of the patent." M.P.E.P. §2173.01 provides further guidance as to what is required under 35 U.S.C. §112, second paragraph. Specifically, M.P.E.P. §2173.01 states:

[Applicants] can define in the claims what they regard as their invention essentially in whatever terms they choose so long as the terms are not used in ways that are contrary to accepted meanings in the art. Applicant may use functional language, alternative expressions, negative limitations, or any style of expression or format of claim which makes clear the boundaries of the subject matter for which protection is sought. As noted by the court in *In re Swinehart*, 439 F.2d 210, 160 USPQ 226 (CCPA 1971), a claim may not be rejected solely because of the type of language used to define the subject matter for which patent protection is sought.

Furthermore, M.P.E.P. §2173.02 provides guidance for the Examiner for reviewing a claim for definiteness. Specifically, M.P.E.P. §2173.02 states:

The examiner's focus during examination of claims for compliance with the requirement for definiteness of 35 U.S.C. 112, second paragraph is whether the claim meets the threshold requirements of clarity and precision, not whether more suitable language or modes of expression are available. When the examiner is satisfied that patentable subject matter is disclosed, and it is apparent to the examiner that the claims are directed to such patentable subject matter, he or she should allow claims which define the patentable subject matter with a reasonable degree of particularity and distinctness. Some latitude in the manner of expression and the aptness of terms should be permitted even though the claim language is not as precise as the examiner might desire. . . . In reviewing a claim for compliance with 35 U.S.C. 112, second paragraph, the examiner must consider the claim as a whole to determine whether the claim apprises one of ordinary skill in the art of its scope and, therefore, serves the

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notice function required by 35 U.S.C. 112, second paragraph by providing clear warning to others as to what constitutes infringement of the patent. See, e.g., *Solomon v. Kimberly-Clark Corp.*, 216 F.3d 1372, 1379, 55 USPQ2d 1279, 1283 (Fed. Cir. 2000). See also *In re Larsen*, No. 01-1092 (Fed. Cir. May 9, 2001) (unpublished) . . . If the language of the claim is such that a person of ordinary skill in the art could not interpret the metes and bounds of the claim so as to understand how to avoid infringement, a rejection of the claim under 35 U.S.C. 112, second paragraph would be appropriate. See *Morton Int'l, Inc. v. Cardinal Chem. Co.*, 5 F.3d 1464, 1470, 28 USPQ2d 1190, 1195 (Fed. Cir. 1993). However, if the language used by applicant satisfies the statutory requirements of 35 U.S.C. 112, second paragraph, but the examiner merely wants the applicant to improve the clarity or precision of the language used, the claim must not be rejected under 35 U.S.C. 112.

In view of the requirements for definiteness stated above, Applicant submits that all pending claims are clearly definite.

Claims 1-14, 19, 20, 22-34, 39 and 40 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. This rejection appears to correspond with the written description rejection of the claims as discussed above as the Final Office Action only states that “[i]t is not clear how the cover prevents the module from removal while the cover is over the modules as recited in claims 1 and 22.” See Page 2, Paragraph 2 of Office Action mailed December 20, 2007. However, Applicant submits that there is a written description for the subject matter of these claims and that the same are definite. Moreover, it is clear to the public of the boundaries of what constitutes infringement of these claims. Accordingly, Applicant submits that claims 1-14, 19, 20, 22-34, 39 and 40 are definite as presently written.

### **C. The Legal Standard for Rejecting a Claim as Being Obvious**

As further discussed below, Applicants respectfully submit that a *prima facie* case of obviousness has not been established. The test for obviousness has recently been addressed by the U.S. Supreme Court in *KSR Int'l. Co. v. Teleflex, Inc.*, No. 04-1350 (U.S. Apr. 30, 2007). In its decision, the Supreme Court stated that the teaching-suggestion-motivation (TSM) standard developed by the Federal Circuit was no longer the sole test for determining

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obviousness. Nevertheless, the Court indicated that the TSM test provides helpful insights as to the obviousness of the invention. With respect to the TSM test, the U.S. Patent and Trademark Office, which had adopted that test, set forth the requirements for making a *prima facie* case of obviousness are described in MPEP §2143 as follows:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. ***Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.***

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). [emphasis added]

The U.S. Supreme Court held that the TSM standard was not the sole standard for finding obviousness, one element to the finding of a *prima facie* case of obviousness is common to both the TSM standard and the standards that may otherwise fall within the per view of the *KSR* decision. Specifically, each and every element of the claimed invention must still be found in the prior art. As will be set forth below, there are elements of the claimed invention that are missing in their entirety from the cited prior art.

Further, with respect to the recent Supreme Court decision in *KSR Int'l. Co. v. Teleflex, Inc.*, No. 04-1350 (U.S. Apr. 30, 2007), the Deputy Commissioner for Patent Operations has issued a memo advising the examiners that "in formulating a rejection under 35 U.S.C. § 103(a) based upon a combination of prior art elements, it remains necessary to identify the reason why a person of ordinary skill in the art would have combined the prior art elements in the manner claimed."

- D. Rejection of Claims 1, 3, 4, 6-11, 13, 14, 20, 23, 24, 26-31, 33, 34 and 40 under 35 U.S.C. §103(a) as Being Obvious Over over PCT Publication No. WO 01/98170 to Casanova in view of U.S. Patent No. 3,743,084 to Douglas and/or U.S. Patent No. 6,253,920 to Källgren.**

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Applicant notes as an initial matter that it is difficult to respond to the Final Office Action in this Appeal Brief as Applicant is not able to determine how the references are combined to reject the cited claims. Notably, the Final Office Action only states what the three references are purported to include and does not state how these three references are combined. Namely, the Final Office Action does not state how the Douglas '048 patent is combined with the Casanova '017 publication, how the Källgren '920 patent is combined with the Casanova '017 publication, or how both the Douglas '048 patent and the Källgren '920 patent are combined with the Casanova '017 publication. Furthermore, the Final Office Action has not set forth the proposed modification of the applied references necessary to arrive at the claimed subject matter as required by MPEP §706.02(j). Applicant further submits that this deficiency applies to all of the rejections of the claims in the Final Office Action. Accordingly, Applicant submits that the Final Office Action has not set forth a prima facie rejection of the claims. Applicant raised this issue in a response to the Final Office Action filed on March 20, 2007, but such an issue was never addressed. Nevertheless, Applicant will attempt to respond to the rejections set forth in the Office Action.

#### 1. Claim 1, 13, 14 and 20

Claim 1 defines a battery package comprising at least two separate modules. Each module includes a base having a first face and a second face, with at least one pocket extending outwardly from the first face. At least one battery is placed into each pocket. A cover is placed over the at least two separate modules. Two of the at least two separate modules have the first faces thereof facing each other. At least one pocket of a first one of the two of the at least two separate modules is located between a pair of pockets of a second one of the two of the at least two separate modules. The at least two separate modules will easily separate upon removal of the cover from over the at least two separate modules. None of the modules are able to be removed from within the cover while the cover is over all of the at least two separate modules.

Applicant submits that claim 1 is not obvious over the prior art of record. Applicant submits that it is not obvious to combine the references as set forth in the Office Action and

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that the cited references do not teach or suggest all of the claim limitations. As an initial matter, Applicant submits that the Casanova '017 publication, even when combined with the other cited references to reject claim 1, does not allow for at least one pocket of a first one of at least two separate modules being located between a pair of pockets of the second one of at least two separate modules. Notably, the Office Action has not clearly set forth how the references are combined, and Applicant submits that any combination of the references would not include this feature and that the Casanova '017 publication would not allow for a modification to include this feature.

Nevertheless, the present rejection of the claims appears to include three separate rejections: (1) the Casanova '017 publication in view of the Douglas '084 patent; (2) the Casanova '017 publication in view of the Källgren '920 patent; and (3) the Casanova '017 publication in view of the Douglas '084 patent and the Källgren '920 patent. Each of these three apparent rejections are addressed below.

*i. The Casanova '017 publication in view of the Douglas '084 patent*

In regard to the rejection of the claims as being unpatentable over the Casanova '017 publication in view of the Douglas '084 patent, while Applicant is unable to ascertain how these references are combined, a combination of these two references clearly will not include all of the subject matter of claim 1. Neither of these references include at least two separate modules. First, the Casanova '017 publication does not include at least two modules. Second, the Douglas '084 patent includes holding units or assemblages 50 and 60 that are connected by a linking panel 42 and units 80 and 90 that are connected by linking panel 76. Accordingly, the Douglas '084 patent does not include at least two separate modules. Therefore, a combination of these two references will not include at least two separate modules that will easily separate upon removal of a cover from over the at least two separate modules.

Moreover, a combination of these two references will not include a feature that none of the modules are able to be removed from within the cover while the cover is over all of the at least two separate modules. The Douglas '048 patent states in line 60 of column 5 and lines 1-5 of column 6 that paired commodity holding units can be held together by shrink wrap,

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overwrap or band wrap. However, each paired unit cannot be considered to be a separate module as defined in the claims as the claims require that two of the at least two separate modules have first faces thereof facing each other, with at least one pocket of a first one of the two of the at least two separate modules being located between a pair of pockets of a second one of the two of the at least two separate modules. Since one of the paired commodity holding units of the Douglas '048 patent will not include a pocket being located between a pair of pockets on a second one of the paired units, each paired unit cannot be seen as a separate module.

Accordingly, for the Douglas '084 patent in combination with the Casanova '017 publication to include subject matter that reads on claim 1, one of the paired units itself would have to be separate. However, the references teach away from the paired units being separate according to the combination as set forth in the Office Action. As set forth in the final Office Action, "it would have been obvious to an artisan at the time the invention was created to utilize this application to store more articles in a packed and secured manner." See Pages 3-4, Paragraph 4 of Office Action mailed December 20, 2007. However, the Douglas '048 patent states in the background of the invention that if the units 50 and 60 or 80 and 90 were separate, the compact and secure manner of the invention of the Douglas '048 patent "would not be made use of." See lines 48-63 of column 1. Accordingly, the Douglas '048 patent teaches away from any combination where the units 50 and 60 or the units 80 and 90 are separate. Therefore, the Douglas '048 patent expressly teaches that the units must not be separate.

Finally, the cover 10 or cover 70 allow the modules to be removed from within the cover. Notably, the covers 10 and 70 of the Douglas '048 patent includes a side surface open for removal of the units. As set forth in the 35 U.S.C. §112, first paragraph, rejection in the Office Action, having one side surface for removal of a unit does not comprise a situation where none of the units are able to be removed from within the cover while the cover is over all of the units. Accordingly, the Office Action implicitly admits that the covers 10 and 70 of the Douglas '084 patent could not read on claim 1.

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*ii. The Casanova '017 publication in view of the Källgren '920 patent*

In regard to the rejection of claim 1 over the Casanova '017 publication in view of the Källgren '920 patent, any resulting combination would not include at least two separate modules as everything in the Källgren '920 patent is connected together. First, the Casanova '017 publication does not include any separate modules as discussed above. Second, the Källgren '920 patent does not include any elements that are separate, much less two separate modules. Moreover, the Källgren '920 patent states that the blister packs 1 can be placed in a package which is openable from one end surface or side wall, and that one blister pack can be pulled out of the package without pulling along other blister packs packed in the package. See lines 66 and 67 of column 2 and lines 1-3 of column 3. Accordingly, the Källgren '920 patent does not expressly or necessarily teach that none of the modules are able to be removed from within a cover while the cover is over at least two modules as claimed in claim 1.

*iii. The Casanova '017 publication in view of the Douglas '084 patent and the Källgren '920 patent*

Finally, a combination of all three of the references include all of the deficiencies as outlined above.

*iv. Conclusion*

Accordingly, claim 1 is in condition for allowance. Furthermore, claims 13, 14 and 20 depend from claim 1, and since claim 1 defines unobvious patentable subject matter as discussed above, claims 13, 14 and 20 define patentable subject matter.

2. Claim 3

Claim 3 depends from claim 1 and further states that each module includes a lid over a second face of a base. First, claim 3 depends from claim 1, and since claim 1 defines unobvious patentable subject matter as discussed above, claim 3 defines patentable subject matter. Second, each of the combinations to reject claim 3 would not include a lid over a second face of a base of each module. While the Office Action states that the Casanova '017

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publication includes a transparent lid 36 and a card 14, it does not appear that either of these elements will be included in the combination as set forth in the Office Action. Accordingly, claim 3 is in condition for allowance.

### 3. Claim 4

Claim 4 depends from claim 3 and further states that states that the lid is transparent. First, claim 4 depends from claims 1 and 3, and since claims 1 and 3 define unobvious patentable subject matter as discussed above, claim 4 defines patentable subject matter. Second, each of the combinations to reject claim 4 would not include any lid as discussed above in regard to claim 3. Accordingly, claim 4 is in condition for allowance.

### 4. Claim 6

Claim 6 depends from claim 3 and defines the package as including a card positioned over the lid and the second face of the module. First, claim 6 depends from claims 1 and 3, and since claims 1 and 3 define unobvious patentable subject matter as discussed above, claim 6 defines patentable subject matter. Second, each of the combinations to reject claim 6 would not include any lid and card as discussed above in regard to claim 3. Accordingly, claim 6 is in condition for allowance.

### 5. Claim 7

Claim 7 depends from claim 1 and defines the package as including a card positioned over the second face of each module. First, claim 7 depends from claim 1, and since claim 1 defines unobvious patentable subject matter as discussed above, claim 7 defines patentable subject matter. Second, each of the combinations to reject claim 7 would not include any card as discussed above in regard to claim 3. Accordingly, claim 7 is in condition for allowance.

### 6. Claim 8

Claim 8 depends from claim 1 and states that each pocket includes a non-rotation feature for maintaining batteries in place therein in a selected rotated position. First, claim 8

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depends from claim 1, and since claim 1 defines unobvious patentable subject matter as discussed above, claim 8 defines patentable subject matter. Second, any combination of the references as set forth in the Office Action would not include this feature of claim 8. According to the final Office Action, "Miller has a (sic) non-rotation features 76,78 to prevent rotation of the batteries." See Page 3, paragraph 4 of Office Action mailed December 20, 2006. However, no Miller reference is combined with or discussed in combination with the Casanova '017 publication in view of the Douglas '084 patent and/or the Källgren '920 patent in the rejection of the claims. Accordingly, the combination of the Casanova '017 publication, the Douglas '084 patent and/or the Källgren '920 patent would not include this feature. Therefore, claim 8 is in condition for allowance.

#### 7. Claim 9

Claim 9 depends from claim 8 and defines the non-rotation feature comprises at least one tab extending into the pocket, the at least one tab being configured to frictionally engage the battery placed within the pocket. First, claim 9 depends from claims 1 and 8, and since claims 1 and 8 define unobvious patentable subject matter as discussed above, claim 9 defines patentable subject matter. Second, each of the combinations to reject claim 9 would not include any non-rotation feature as discussed above in regard to claim 8. Accordingly, claim 9 is in condition for allowance.

#### 8. Claim 10

Claim 10 depends from claim 1 and states that each of the modules are identical. First, claim 10 depends from claim 1, and since claim 1 defines unobvious patentable subject matter as discussed above, claim 10 defines patentable subject matter. Second, any combination of the references as set forth in the Office Action would not include this feature of claim 10. Notably, the units having elongated articles in Fig. 6 of the Douglas '048 patent and the packs in the Källgren '920 patent have different numbers of blisters. Additionally, the Källgren '920 patent specifically teaches away from rows of blisters having the same number of blisters. See lines 50-67 of column 1 and lines 1-3 of column 2 of the Källgren '920 patent (e.g., "a stack of

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such blister packs [i.e., identical blister packs] will present free edges, which can easily be damaged during handling or transport”). Accordingly, it is not obvious to combine the references that would result in the subject matter of claim 10. Therefore, claim 10 is in condition for allowance.

#### 9. Claim 11

Claim 11 depends from claim 1 and states that each module includes only four pockets. First, claim 11 depends from claim 1, and since claim 1 defines unobvious patentable subject matter as discussed above, claim 11 defines patentable subject matter. Second, any combination of the references as set forth in the Office Action would not include this feature of claim 11. Notably, the units having elongated articles in Fig. 6 of the Douglas ‘048 patent and the packs in the Källgren ‘920 patent have different numbers of blisters. Additionally, the Källgren ‘920 patent specifically teaches away from rows of blisters having the same number of blisters. See lines 50-67 of column 1 and lines 1-3 of column 2 of the Källgren ‘920 patent (e.g., “a stack of such blister packs [i.e., identical blister packs] will present free edges, which can easily be damaged during handling or transport”). Accordingly, it is not obvious to combine the references that would result in the subject matter of claim 11. Therefore, claim 11 is in condition for allowance.

#### 10. Claim 23

Claim 23 depends from claim 22 and further includes placing a lid over a second face of a base of each module. First, claim 23 depends from claim 22, which has not been rejected as being unpatentable over the Casanova ‘017 publication in view of the Douglas ‘084 patent and/or the Källgren ‘920 patent. While this was brought to the Examiner’s attention in a response to the first office action, the final office action continues this rejection of claim 23 without rejecting claim 22, the claim from which claim 23 depends. Therefore, claim 23 defines patent subject matter. Second, each of the combinations to reject claim 23 would not include placing a lid over a second face of a base of each module. While the Office Action states that the Casanova ‘017 publication includes a transparent lid 36 and a card 14, it does

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not appear that either of these elements will be included in the combination as set forth in the Office Action. Accordingly, claim 23 is in condition for allowance.

#### 11. Claim 24

Claim 24 depends from claim 23 and further states that the lid is transparent. First, claim 24 depends from claims 22 and 23, and since claims 22 and 23 define unobvious patentable subject matter as discussed above, claim 24 defines patentable subject matter. Second, each of the combinations to reject claim 24 would not include any lid as discussed above in regard to claim 23. Accordingly, claim 24 is in condition for allowance.

#### 12. Claim 26

Claim 26 depends from claim 23 and includes positioning a card over the lid and the second face of each module. First, claim 26 depends from claims 22 and 23, and since claims 22 and 23 define unobvious patentable subject matter as discussed above, claim 26 defines patentable subject matter. Second, each of the combinations to reject claim 26 would not include any lid and card as discussed above in regard to claim 23. Accordingly, claim 26 is in condition for allowance.

#### 13. Claim 27

Claim 27 depends from claim 22 and includes a card positioned over the second face of each module. First, claim 27 depends from claim 22, which has not been rejected as being unpatentable over the Casanova '017 publication in view of the Douglas '084 patent and/or the Källgren '920 patent as discussed above. Therefore, claim 27 defines patentable subject matter. Second, each of the combinations to reject claim 27 would not include any card as discussed above in regard to claim 23. Accordingly, claim 27 is in condition for allowance.

#### 14. Claim 28

Claim 28 depends from claim 22 and further includes providing each pocket with a non-rotation feature and maintaining batteries in place in the pockets in a selected rotated position.

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First, claim 28 depends from claim 22, which has not been rejected as being unpatentable over the Casanova '017 publication in view of the Douglas '084 patent and/or the Källgren '920 patent as discussed above. Therefore, claim 28 defines patentable subject matter. Second, any combination of the references as set forth in the Office Action would not include these features of claim 28. According to the final Office Action, "Miller has a (sic) non-rotation features 76,78 to prevent rotation of the batteries." See Page 3, paragraph 4 of Office Action mailed December 20, 2006. However, no Miller reference is combined with or discussed in combination with the Casanova '017 publication in view of the Douglas '084 patent and/or the Källgren '920 patent in the rejection of the claims. Accordingly, the combination of the Casanova '017 publication, the Douglas '084 patent and/or the Källgren '920 patent would not include these features. Therefore, claim 28 is in condition for allowance.

#### 15. Claim 29

Claim 29 depends from claim 28 and defines the non-rotation feature as comprising at least one tab extending into the pocket, the at least one tab being configured to frictionally engage the battery placed within the pocket. First, claim 29 depends from claims 22 and 28, and since claims 22 and 28 define unobvious patentable subject matter as discussed above, claim 29 defines patentable subject matter. Second, each of the combinations to reject claim 29 would not include any non-rotation feature as discussed above in regard to claim 28. Accordingly, claim 29 is in condition for allowance.

#### 16. Claim 30

Claim 30 depends from claim 22 and states that each of the modules are identical. First, claim 30 depends from claim 22, which has not been rejected as being unpatentable over the Casanova '017 publication in view of the Douglas '084 patent and/or the Källgren '920 patent as discussed above. Therefore, claim 30 defines patentable subject matter. Second, any combination of the references as set forth in the Office Action would not include this feature of claim 30. Notably, the units having elongated articles in Fig. 6 of the Douglas '048 patent and the packs in the Källgren '920 patent have different numbers of blisters. Additionally, the

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Källgren '920 patent specifically teaches away from rows of blisters having the same number of blisters. See lines 50-67 of column 1 and lines 1-3 of column 2 of the Källgren '920 patent (e.g., "a stack of such blister packs [i.e., identical blister packs] will present free edges, which can easily be damaged during handling or transport"). Accordingly, it is not obvious to combine the references that would result in the subject matter of claim 30. Therefore, claim 30 is in condition for allowance.

#### 17. Claim 31

Claim 31 depends from claim 22 and states that each module includes only four pockets. First, claim 31 depends from claim 22, which has not been rejected as being unpatentable over the Casanova '017 publication in view of the Douglas '084 patent and/or the Källgren '920 patent as discussed above. Therefore, claim 30 defines patentable subject matter. Second, any combination of the references as set forth in the Office Action would not include this feature of claim 31. Notably, the units having elongated articles in Fig. 6 of the Douglas '048 patent and the packs in the Källgren '920 patent have different numbers of blisters. Additionally, the Källgren '920 patent specifically teaches away from rows of blisters having the same number of blisters. See lines 50-67 of column 1 and lines 1-3 of column 2 of the Källgren '920 patent (e.g., "a stack of such blister packs [i.e., identical blister packs] will present free edges, which can easily be damaged during handling or transport"). Accordingly, it is not obvious the combine the references that would result in the subject matter of claim 31. Therefore, claim 31 is in condition for allowance.

#### 18. Claims 33, 34 and 40

While claims 33, 34 and 40 have been rejected as being unpatentable over the Casanova '017 publication in view of the Douglas '084 patent and/or the Källgren '920 patent, each of these claims depend from claim 22, which has not been rejected over these references. Accordingly, Applicant submits that claims 33, 34 and 40 are patentable over the Casanova '017 publication in view of the Douglas '084 patent and/or the Källgren '920 patent as set forth in the final Office Action as their independent claim is patentable over these references as set

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forth in the final Office Action. Nevertheless, Applicant submits that all of these claims define patentable subject matter and that claim 22 defines patentable subject matter as the Casanova '017 publication in view of the Douglas '084 patent and/or the Källgren '920 patent would not include all of the features of claim 22 (see, e.g., the discussion regarding claim 1 above). Accordingly, claims 33, 34 and 40 are in condition for allowance.

**E. Rejection of Claims 2, 12 and 32 under 35 U.S.C. §103(a) as Being Obvious Over “the references applied above with respect to claims 1 and 22” further in view of Official Notice**

**1. Claim 2**

Claim 2 depends from claim 1 and further defines the at least two separate modules as comprising at least three separate modules. Claim 2 depends from claim 1, and since claim 1 defines unobvious patentable subject matter as discussed above, claim 2 defines patentable subject matter. Accordingly, claim 2 is in condition for allowance.

**2. Claim 12**

Claim 12 depends from claim 1 and further defines each module as including only five pockets. First, claim 12 depends from claim 1, and since claim 1 defines unobvious patentable subject matter as discussed above, claim 12 defines patentable subject matter. Second, as discussed above in regard to claims 10 and 11, the prior art of record teaches away from any combination where modules include the same number of pockets. Furthermore, Applicant would like to point to the discussion in the Källgren '920 patent for reasons while each module having only five pockets would render the combination ineffective. See lines 50-67 of column 1 and lines 1-3 of column 2 of the Källgren '920 patent. Accordingly, claim 12 is in condition for allowance.

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### 3. Claim 32

Claim 32 depends from claim 22 and further defines each module as including only five pockets. First, claim 32 depends from claim 22, which has not been rejected as being unpatentable over the Casanova '017 publication in view of the Douglas '084 patent and/or the Källgren '920 patent as discussed above. Therefore, claim 32 defines patentable subject matter. Second, as discussed above in regard to claims 10 and 11, the prior art of record teaches away from any combination where modules include the same number of pockets. Furthermore, Applicant would like to point to the discussion in the Källgren '920 patent for reasons while each module having only five pockets would render the combination ineffective. See lines 50-67 of column 1 and lines 1-3 of column 2 of the Källgren '920 patent. Accordingly, claim 32 is in condition for allowance.

**F. Rejection of Claims 1, 3-5, 10, 11, 13, 14, 19, 20, 22-25, 30, 31, 33, 34, 39 and 40 under 35 U.S.C. §103(a) as Being Obvious Over U.S. Design Patent No. D479,126 to Kumakura et al. in view of the Douglas '084 patent and/or the Källgren '920 patent.**

#### 1. Claim 1, 3, 5, 13, 14, 19 and 20

Claim 1 defines a battery package comprising at least two separate modules. Each module includes a base having a first face and a second face, with at least one pocket extending outwardly from the first face. At least one battery is placed into each pocket. A cover is placed over the at least two separate modules. Two of the at least two separate modules have the first faces thereof facing each other. At least one pocket of a first one of the two of the at least two separate modules is located between a pair of pockets of a second one of the two of the at least two separate modules. The at least two separate modules will easily separate upon removal of the cover from over the at least two separate modules. None of the modules are able to be removed from within the cover while the cover is over all of the at least two separate modules.

Applicant submits that claim 1 is not obvious over the prior art of record. Applicant submits that it is not obvious to combine the references as set forth in the Office Action and

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that the cited references do not teach or suggest all of the claim limitations. Applicant submits that there is no suggestion or motivation to combine the references as set forth in the Office Action and that the cited references do not teach or suggest all of the claim limitations. As an initial matter, Applicant submits that the Kumakura et al. '126 patent does not allow for at least one pocket of a first one of at least two separate modules being located between a pair of pockets of the second one of at least two separate modules.

Nevertheless, the present rejection of the claims appears to include three separate rejections: (1) the Kumakura et al. '126 patent in view of the Douglas '084 patent; (2) the Kumakura et al. '126 patent in view of the Källgren '920 patent; and (3) the Kumakura et al. '126 patent in view of the Douglas '084 patent and the Källgren '920 patent. Each of these three apparent rejections are addressed below.

*i. The Kumakura et al. '126 patent in view of the Douglas '084 patent*

In regard to the rejection of the claims as being unpatentable over the Kumakura et al. '126 patent in view of the Douglas '084 patent, while Applicant is unable to ascertain how these references are combined, a combination of these two references clearly will not include all of the subject matter of claim 1. Neither of these references include at least two separate modules. First, the Kumakura et al. '126 patent does not include at least two modules. Second, the Douglas '084 patent includes holding units or assemblages 50 and 60 that are connected by a linking panel 42 and units 80 and 90 that are connected by linking panel 76. Accordingly, the Douglas '084 patent does not include at least two separate modules. Therefore, a combination of these two references will not include at least two separate modules that will easily separate upon removal of a cover from over the at least two separate modules.

Moreover, a combination of these two references will not include a feature that none of the modules are able to be removed from within the cover while the cover is over all of the at least two separate modules. The Douglas '048 patent states in line 60 of column 5 and lines 1-5 of column 6 that paired commodity holding units can be held together by shrink wrap, overwrap or band wrap. However, each paired unit cannot be considered to be a separate module as defined in the claims as the claims require that two of the at least two separate

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modules have first faces thereof facing each other, with at least one pocket of a first one of the two of the at least two separate modules being located between a pair of pockets of a second one of the two of the at least two separate modules. Since one of the paired units will not include a pocket being located between a pair of pockets on a second one of the paired units, each paired unit cannot be seen as a separate module.

Accordingly, for the Douglas '084 patent in combination with the Kumakura et al. '126 patent to include subject matter that reads on claim 1, one of the paired units itself would have to be separate. However, the references teach away from the paired units being separate according to the combination as set forth in the Office Action. As set forth in the Office Action, "it would have been obvious to an artisan at the time the invention was created to utilize this application to store more articles in a packed and secured manner." However, the Douglas '048 patent states in the background of the invention that if the units 50 and 60 or 80 and 90 were separate, the compact and secure manner of the invention of the Douglas '048 patent "would not be made use of." See lines 48-63 of column 1. Accordingly, the Douglas '048 patent teaches away from any combination where the units 50 and 60 or the units 80 and 90 are separate. Therefore, the Douglas '048 patent expressly teaches that the units must not be separate.

Finally, the cover 10 or cover 70 allow the modules to be removed from within the cover. Notably, the covers 10 and 70 of the Douglas '048 patent includes a side surface open for removal of the units. As set forth in the 35 U.S.C. §112, first paragraph rejection in the Office Action, having one side surface for removal of a unit does not comprise a situation where none of the units are able to be removed from within the cover while the cover is over all of the units. Accordingly, the Office Action implicitly admits that the covers 10 and 70 of the Douglas '084 patent could not read on claim 1.

*ii. The Kumakura et al. '126 patent in view of the Källgren '920 patent*

In regard to the rejection of claim 1 over the Kumakura et al. '126 patent in view of the Källgren '920 patent, any resulting combination would not include at least two separate modules as everything in the Källgren '920 patent is connected together. Accordingly, the

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Källgren '920 patent does not include any elements that are separate, much less two separate modules. Moreover, the Källgren '920 patent states that the blister packs 1 can be placed in a package which is openable from one end surface or side wall, and that one blister pack can be pulled out of the package without pulling along other blister packs packed in the package. See lines 66 and 67 of column 2 and lines 1-3 of column 3. Accordingly, the Källgren '920 patent does not expressly or necessarily teach that none of the modules are able to be removed from within a cover while the cover is over at least two modules as claimed in claim 1.

*iii. The Kumakura et al. '126 patent in view of the Douglas '084 patent and the Källgren '920 patent*

Finally, a combination of all three of the references include all of the deficiencies as outlined above.

*iv. Conclusion*

Accordingly, claim 1 is in condition for allowance. Furthermore, claims 3, 5, 13, 14, 19 and 20 depend from claim 1, and since claim 1 defines unobvious patentable subject matter as discussed above, claims 3, 5, 13, 14, 19 and 20 define patentable subject matter.

2. Claim 4

Claim 4 depends from claim 3 and further states that states that the lid is transparent. First, claim 4 depends from claims 1 and 3, and since claims 1 and 3 define unobvious patentable subject matter as discussed above, claim 4 defines patentable subject matter. Second, each of the combinations to reject claim 4 would not include any transparent lid. While the Office Action states that the Kumakura et al. '126 patent includes a lid, the Kumakura et al. '126 patent does not disclose any transparent lid. Accordingly, claim 4 is in condition for allowance.

3. Claim 10

Claim 10 depends from claim 1 and states that each of the modules are identical. First,

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claim 10 depends from claim 1, and since claim 1 defines unobvious patentable subject matter as discussed above, claim 10 defines patentable subject matter. Second, any combination of the references as set forth in the Office Action would not include this feature of claim 10. Notably, the units having elongated articles in Fig. 6 of the Douglas '048 patent and the packs in the Källgren '920 patent have different numbers of blisters. Additionally, the Källgren '920 patent specifically teaches away from rows of blisters having the same number of blisters. See lines 50-67 of column 1 and lines 1-3 of column 2 of the Källgren '920 patent (e.g., "a stack of such blister packs [i.e., identical blister packs] will present free edges, which can easily be damaged during handling or transport"). Accordingly, it is not obvious to combine the references that would result in the subject matter of claim 10. Therefore, claim 10 is in condition for allowance.

#### 4. Claim 11

Claim 11 depends from claim 1 and states that each module includes only four pockets. First, claim 11 depends from claim 1, and since claim 1 defines unobvious patentable subject matter as discussed above, claim 11 defines patentable subject matter. Second, any combination of the references as set forth in the Office Action would not include this feature of claim 11. Notably, the units having elongated articles in Fig. 6 of the Douglas '048 patent and the packs in the Källgren '920 patent have different numbers of blisters. Additionally, the Källgren '920 patent specifically teaches away from rows of blisters having the same number of blisters. See lines 50-67 of column 1 and lines 1-3 of column 2 of the Källgren '920 patent (e.g., "a stack of such blister packs [i.e., identical blister packs] will present free edges, which can easily be damaged during handling or transport"). Accordingly, it is not obvious to combine the references that would result in the subject matter of claim 11. Therefore, claim 11 is in condition for allowance.

#### 5. Claims 22, 23, 25, 33, 34, 39 and 40

Claim 22 defines a method of packaging batteries comprising providing at least two separate modules. Each module includes a base having a first face and a second face. Each

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module further includes at least one pocket extending outwardly from the first face. The method also includes placing at least one battery in each pocket and positioning the first face of at least two of the plurality of separate modules facing each other, with at least one pocket of a first one of the at least two of the at least two separate modules is located between a pair of pockets of a second one of the at least two of the at least two separate modules. The method also includes placing a cover over the at least two separate modules, wherein none of the modules are able to be removed from within the cover while the cover is over all of the at least two separate modules.

Applicant submits that claim 22 is not obvious over the prior art of record. Applicant submits that it is not obvious to combine the references as set forth in the Office Action and that the cited references do not teach or suggest all of the claim limitations. As an initial matter, Applicant submits that the Kumakura et al. '126 patent does not allow for at least one pocket of a first one of at least two separate modules being located between a pair of pockets of the second one of at least two separate modules.

Nevertheless, the present rejection of the claims appears to include three separate rejections: (1) the Kumakura et al. '126 patent in view of the Douglas '084 patent; (2) the Kumakura et al. '126 patent in view of the Källgren '920 patent; and (3) the Kumakura et al. '126 patent in view of the Douglas '084 patent and the Källgren '920 patent. Each of these three apparent rejections are addressed below.

*i. The Kumakura et al. '126 patent in view of the Douglas '084 patent*

In regard to the rejection of the claims as being unpatentable over the Kumakura et al. '126 patent in view of the Douglas '084 patent, while Applicant is unable to ascertain how these references are combined, a combination of these two references clearly will not include all of the subject matter of claim 22. Neither of these references include at least two separate modules. First, the Kumakura et al. '126 patent does not include at least two modules. Second, the Douglas '084 patent includes holding units or assemblages 50 and 60 that are connected by a linking panel 42 and units 80 and 90 that are connected by linking panel 76. Accordingly, the Douglas '084 patent does not include at least two separate modules.

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Therefore, a combination of these two references will not include at least two separate modules that will easily separate upon removal of a cover from over the at least two separate modules.

Moreover, a combination of these two references will not include a feature that none of the modules are able to be removed from within the cover while the cover is over all of the at least two separate modules. The Douglas '048 patent states in line 60 of column 5 and lines 1-5 of column 6 that paired commodity holding units can be held together by shrink wrap, overwrap or band wrap. However, each paired unit cannot be considered to be a separate module as defined in the claims as the claims require that two of the at least two separate modules have first faces thereof facing each other, with at least one pocket of a first one of the two of the at least two separate modules being located between a pair of pockets of a second one of the two of the at least two separate modules. Since one of the paired units will not include a pocket being located between a pair of pockets on a second one of the paired units, each paired unit cannot be seen as a separate module.

Accordingly, for the Douglas '084 patent in combination with the Kumakura et al. '126 patent to include subject matter that reads on claim 22, one of the paired units itself would have to be separate. However, the references teach away from the paired units being separate according to the combination as set forth in the Office Action. As set forth in the Office Action, "it would have been obvious to an artisan at the time the invention was created to utilize this application to store more articles in a packed and secured manner." However, the Douglas '048 patent states in the background of the invention that if the units 50 and 60 or 80 and 90 were separate, the compact and secure manner of the invention of the Douglas '048 patent "would not be made use of." See lines 48-63 of column 1. Accordingly, the Douglas '048 patent teaches away from any combination where the units 50 and 60 or the units 80 and 90 are separate. Therefore, the Douglas '048 patent expressly teaches that the units must not be separate.

Finally, the cover 10 or cover 70 allow the modules to be removed from within the cover. Notably, the covers 10 and 70 of the Douglas '048 patent includes a side surface open for removal of the units. As set forth in the 35 U.S.C. §112, first paragraph rejection in the Office Action, having one side surface for removal of a unit does not comprise a situation

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where none of the units are able to be removed from within the cover while the cover is over all of the units. Accordingly, the Office Action implicitly admits that the covers 10 and 70 of the Douglas '084 patent could not read on claim 22.

*ii. The Kumakura et al. '126 patent in view of the Källgren '920 patent*

In regard to the rejection of claim 22 over the Kumakura et al. '126 patent in view of the Källgren '920 patent, any resulting combination would not include at least two separate modules as everything in the Källgren '920 patent is connected together. Accordingly, the Källgren '920 patent does not include any elements that are separate, much less two separate modules. Moreover, the Källgren '920 patent states that the blister packs 1 can be placed in a package which is openable from one end surface or side wall, and that one blister pack can be pulled out of the package without pulling along other blister packs packed in the package. See lines 66 and 67 of column 2 and lines 1-3 of column 3. Accordingly, the Källgren '920 patent does not expressly or necessarily teach that none of the modules are able to be removed from within a cover while the cover is over at least two modules as claimed in claim 22.

*iii. The Kumakura et al. '126 patent in view of the Douglas '084 patent and the Källgren '920 patent*

Finally, a combination of all three of the references include all of the deficiencies as outlined above.

*iv. Conclusion*

Accordingly, claim 22 is in condition for allowance. Furthermore, claims 23, 25, 33, 34, 39 and 40 depend from claim 22, and since claim 22 defines unobvious patentable subject matter as discussed above, claims 23, 25, 33, 34, 39 and 40 define patentable subject matter.

2. Claim 24

Claim 24 depends from claim 23 and further states that states that the lid is transparent. First, claim 24 depends from claims 22 and 23, and since claim 22 and 23 define unobvious

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patentable subject matter as discussed above, claim 24 defines patentable subject matter. Second, each of the combinations to reject claim 24 would not include any transparent lid. While the Office Action states that the Kumakura et al. '126 patent includes a lid, the Kumakura et al. '126 patent does not disclose any transparent lid. Accordingly, claim 24 is in condition for allowance.

### 3. Claim 30

Claim 30 depends from claim 22 and states that each of the modules are identical. First, claim 30 depends from claim 22, and since claim 22 defines unobvious patentable subject matter as discussed above, claim 30 defines patentable subject matter. Second, any combination of the references as set forth in the Office Action would not include this feature of claim 30. Notably, the units having elongated articles in Fig. 6 of the Douglas '048 patent and the packs in the Källgren '920 patent have different numbers of blisters. Additionally, the Källgren '920 patent specifically teaches away from rows of blisters having the same number of blisters. See lines 50-67 of column 1 and lines 1-3 of column 2 of the Källgren '920 patent (e.g., "a stack of such blister packs [i.e., identical blister packs] will present free edges, which can easily be damaged during handling or transport"). Accordingly, it is not obvious to combine the references that would result in the subject matter of claim 30. Therefore, claim 30 is in condition for allowance.

### 4. Claim 31

Claim 31 depends from claim 22 and states that each module includes only four pockets. First, claim 31 depends from claim 22, and since claim 22 defines unobvious patentable subject matter as discussed above, claim 31 defines patentable subject matter. Second, any combination of the references as set forth in the Office Action would not include this feature of claim 31. Notably, the units having elongated articles in Fig. 6 of the Douglas '048 patent and the packs in the Källgren '920 patent have different numbers of blisters. Additionally, the Källgren '920 patent specifically teaches away from rows of blisters having the same number of blisters. See lines 50-67 of column 1 and lines 1-3 of column 2 of the

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Källgren '920 patent (e.g., "a stack of such blister packs [i.e., identical blister packs] will present free edges, which can easily be damaged during handling or transport"). Accordingly, it is not obvious the combine the references that would result in the subject matter of claim 31. Therefore, claim 31 is in condition for allowance.

**G. Rejection of Claims 2, 12 and 32 under 35 U.S.C. §103(a) as Being Obvious Over "the references applied above with respect to claims 1 and 22" further in view of Official Notice**

**1. Claim 2**

Claim 2 depends from claim 1 and further defines the at least two separate modules as comprising at least three separate modules. Claim 2 depends from claim 1, and since claim 1 defines unobvious patentable subject matter as discussed above, claim 2 defines patentable subject matter. Accordingly, claim 2 is in condition for allowance.

**2. Claim 12**

Claim 12 depends from claim 1 and further defines each module as including only five pockets. First, claim 12 depends from claim 1, and since claim 1 defines unobvious patentable subject matter as discussed above, claim 12 defines patentable subject matter. Second, as discussed above in regard to claims 10 and 11, the prior art of record teaches away from any combination where modules include the same number of pockets. Furthermore, Applicant would like to point to the discussion in the Källgren '920 patent for reasons while each module having only five pockets would render the combination ineffective. See lines 50-67 of column 1 and lines 1-3 of column 2 of the Källgren '920 patent. Accordingly, claim 12 is in condition for allowance.

**3. Claim 32**

Claim 32 depends from claim 22 and further defines each module as including only five pockets. First, claim 32 depends from claim 22, which has not been rejected as being unpatentable over the Casanova '017 publication in view of the Douglas '084 patent and/or the

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Källgren '920 patent as discussed above. Therefore, claim 32 defines patentable subject matter. Second, as discussed above in regard to claims 10 and 11, the prior art of record teaches away from any combination where modules include the same number of pockets. Furthermore, Applicant would like to point to the discussion in the Källgren '920 patent for reasons while each module having only five pockets would render the combination ineffective. See lines 50-67 of column 1 and lines 1-3 of column 2 of the Källgren '920 patent. Accordingly, claim 32 is in condition for allowance.

**H. Rejection of Claims 6-9 and 26-29 under 35 U.S.C. §103(a) as Being Obvious Over “the references applied above with respect to claims 1 and 22, respectively, further in view of Casanova WO 01/98170 A2”**

Claims 6-9 and 26-29 have been rejected under 35 U.S.C. §103(a) as being unpatentable “over the references applied above with respect to claims 1 and 22, respectively, further in view of Casanova WO 01/98170 A2.” Applicant notes that it is difficult to determine which references are being applied in the rejection of these claims as claims 1 and 22 have been rejected over several different references. However, Applicant will assume that claims 6-9 and 26-29 are being rejected as being unpatentable over the Kumakura et al. '126 patent in view of the Douglas '084 patent, the Källgren '920 patent and the Casanova '170 publication.

**1. Claim 6**

Claim 6 depends from claim 3 and further includes a card positioned over a lid and a second face of a module. First, claim 6 depends from claims 1 and 3, and since claims 1 and 3 define unobvious patentable subject matter as discussed above, claim 6 defines patentable subject matter. Second, in the combination as set forth in the Office Action, only a card of the Casanova '170 publication is added to the combination, such that even if it was obvious to combine the references as set forth in the Office Action, the resulting combination would not include any lid. Finally, Applicant submits that it is not obvious to add a card to the combination as set forth in the Office Action. According to the Office Action, the reason for combining the references in the rejection of claim 1 is to make a more compact product.

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However, adding a card to a product would make the resulting combination less compact, not more compact. Therefore, the reason for combination of the references to reject claim 1 is counter to any reason to combine the references to reject claim 6. Accordingly, Applicant submits that it is not obvious to combine the references as set forth in the Office Action to reject claim 6. Accordingly, claim 6 is in condition for allowance.

## 2. Claim 7

Claim 7 depends from claim 1 and defines the package as including a card positioned over the second face of each module. Since claim 1 defines unobvious patentable subject matter as discussed above, claim 7 defines patentable subject matter. Accordingly, claim 7 is in condition for allowance.

## 3. Claim 8

Claim 8 depends from claim 1 and states that each pocket includes a non-rotation feature for maintaining batteries in place therein in a selected rotated position. First, claim 8 depends from claim 1, and since claim 1 defines unobvious patentable subject matter as discussed above, claim 8 defines patentable subject matter. Second, any combination of the references as set forth in the Office Action would not include this feature of claim 8. According to the final Office Action, "Miller has a (sic) non-rotation features 76,78 to prevent rotation of the batteries." See Page 3, paragraph 4 of Office Action mailed December 20, 2006. However, no Miller reference is combined with or discussed in combination with the Kumakura et al. '126 patent in view of the Douglas '084 patent, the Källgren '920 patent and the Casanova '170 publication to reject the claims. Accordingly, the combination of the the Kumakura et al. '126 patent in view of the Douglas '084 patent, the Källgren '920 patent and the Casanova '170 publication would not include this feature. Therefore, claim 8 is in condition for allowance.

## 4. Claim 9

Claim 9 depends from claim 8 and defines the non-rotation feature as comprising at

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least one tab extending into the pocket, the at least one tab being configured to frictionally engage the battery placed within the pocket. First, claim 9 depends from claims 1 and 8, and since claims 1 and 8 define unobvious patentable subject matter as discussed above, claim 9 defines patentable subject matter. Second, each of the combinations to reject claim 9 would not include any non-rotation feature as discussed above in regard to claim 8. Accordingly, claim 9 is in condition for allowance.

#### 5. Claim 26

Claim 26 depends from claim 23 and further includes a card positioned over a lid and a second face of a module. First, claim 26 depends from claims 22 and 23, and since claims 22 and 23 define unobvious patentable subject matter as discussed above, claim 26 defines patentable subject matter. Second, in the combination as set forth in the Office Action, only a card of the Casanova '170 publication is added to the combination, such that even if it was obvious to combine the references as set forth in the Office Action, the resulting combination would not include any lid. Finally, Applicant submits that it is not obvious to add a card to the combination as set forth in the Office Action. According to the Office Action, the reason for combining the references in the rejection of claim 22 is to make a more compact product. However, adding a card to a product would make the resulting combination less compact, not more compact. Therefore, the combination of the references to reject claim 22 is counter to any reason to combine the references to reject claim 26. Accordingly, Applicant submits that it is not obvious to combine the references as set forth in the Office Action to reject claim 26. Accordingly, claim 26 is in condition for allowance.

#### 6. Claim 27

Claim 27 depends from claim 22 and defines the package as including a card positioned over the second face of each module. Since claim 22 defines unobvious patentable subject matter as discussed above, claim 27 defines patentable subject matter. Accordingly, claim 27 is in condition for allowance.

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#### 7. Claim 28

Claim 28 depends from claim 22 and further includes providing each pocket with a non-rotation feature and maintaining batteries in place in the pockets in a selected rotated position. First, claim 28 depends from claim 22, and since claim 22 defines unobvious patentable subject matter as discussed above, claim 28 defines patentable subject matter. Second, any combination of the references as set forth in the Office Action would not include this feature of claim 28. According to the final Office Action, "Miller has a (sic) non-rotation features 76,78 to prevent rotation of the batteries." See Page 3, paragraph 4 of Office Action mailed December 20, 2006. However, no Miller reference is combined with or discussed in combination with the Kumakura et al. '126 patent in view of the Douglas '084 patent, the Källgren '920 patent and the Casanova '170 publication to reject the claims. Accordingly, the combination of the the Kumakura et al. '126 patent in view of the Douglas '084 patent, the Källgren '920 patent and the Casanova '170 publication would not include this feature. Therefore, claim 28 is in condition for allowance.

#### 8. Claim 29

Claim 29 depends from claim 28 and defines the non-rotation feature as comprising at least one tab extending into the pocket, the at least one tab being configured to frictionally engage the battery placed within the pocket. First, claim 29 depends from claims 22 and 28, and since claims 22 and 28 define unobvious patentable subject matter as discussed above, claim 29 defines patentable subject matter. Second, each of the combinations to reject claim 9 would not include any non-rotation feature as discussed above in regard to claim 28. Accordingly, claim 29 is in condition for allowance.

#### **I. Rejection of Claims 21 and 41 under 35 U.S.C. §103(a) as Being Obvious Over PCT Publication WO 01/98171 to Miller in view of the Källgren '920 patent, the Getz et al. '358 patent and the Douglas '048 patent**

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### 1. Claim 21

Claim 21 defines a battery package comprising at least two separate modules, with each module including a base having a first face and a second face, and with each module further including at least one pocket extending outwardly from the first face. At least one battery is placed into each pocket and a cover placed over the at least two separate modules. Two of the at least two separate modules have the first faces thereof facing each other, with at least one pocket of a first one of the two of the at least two separate modules being located between a pair of pockets of a second one of the two of the at least two separate modules. The at least two separate modules will easily separate upon removal of the cover from over the at least two separate modules. The cover comprises shrink wrap plastic.

Applicant submits that claim 21 is not obvious over the prior art of record. Specifically, it is not obvious to combine the references as set forth in the Office Action. Notably, the Getz et al. '358 patent includes a battery strip dispenser that is positioned in a store that allows a person to take out one battery from the dispenser, remove that one battery from the strip, and purchase a single battery. However, in the combination as set forth in the Office Action, the Office Action appears to take the container for holding the strips that allow for individual sale of batteries and place the entire thing within a shrink wrap package. Therefore, a person would not be able to purchase a single battery from the combination as set forth in the Office Action without destroying the holder for all of the batteries by removing a shrink wrap. Finally, Applicant submits that any combination of these references would not include at least two separate modules, or at least two separate modules that will easily separate upon removal of a cover from over the at least two separate modules as discussed above, as none of these references include any of these features and the Källgren '920 patent and the Douglas '084 patent specifically teach away from any such combination. Accordingly, claim 21 is in condition for allowance.

### 2. Claim 41

Claim 41 defines a method of packaging batteries comprising providing at least two separate modules, with each module including a base having a first face and a second face and

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with each module further including at least one pocket extending outwardly from the first face. The method further includes placing at least one battery in each pocket and positioning the first face of at least two of the plurality of separate modules facing each other, with at least one pocket of a first one of the at least two of the at least two separate modules is located between a pair of pockets of a second one of the at least two of the at least two separate modules. The method further includes placing a cover over the at least two separate modules, wherein placing the cover comprises shrink wrapping plastic one of<sup>1</sup> the at least two separate modules.

Applicant submits that claim 41 is not obvious over the prior art of record. Specifically, it is not obvious to combine the references as set forth in the Office Action. Notably, the Getz et al. '358 patent includes a battery strip dispenser that is positioned in a store that allows a person to take out one battery from the dispenser, remove that one battery from the strip, and purchase a single battery. However, in the combination as set forth in the Office Action, the Office Action appears to take the container for holding the strips that allow for individual sale of batteries and place the entire thing within a shrink wrap package. Therefore, a person would not be able to purchase a single battery from the combination as set forth in the Office Action without destroying the holder for all of the batteries by removing a shrink wrap. Finally, Applicant submits that any combination of these references would not include at least two separate modules, or at least two separate modules that will easily separate upon removal of a cover from over the at least two separate modules as discussed above, as none of these references include any of these features and the Källgren '920 patent and the Douglas '084 patent specifically teach away from any such combination. Accordingly, claim 41 is in condition for allowance.

**J. Rejection of Claims 21 and 41 under 35 U.S.C. §103(a) as Being Obvious Over the Kumakura et al. '126 patent in view of the Källgren '920 patent, the Getz et al. '358 patent and the Douglas '048 patent**

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<sup>1</sup> As discussed above, "one of" in this claim is a typographic error and should be "over." Nevertheless, the method includes shrink wrapping plastic over the separate modules and the claims already calls for placing a cover over the at least two separate modules and the cover is defined as shrink wrapped plastic.

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### 1. Claim 21

Claim 21 defines a battery package comprising at least two separate modules, with each module including a base having a first face and a second face, and with each module further including at least one pocket extending outwardly from the first face. At least one battery is placed into each pocket and a cover placed over the at least two separate modules. Two of the at least two separate modules have the first faces thereof facing each other, with at least one pocket of a first one of the two of the at least two separate modules being located between a pair of pockets of a second one of the two of the at least two separate modules. The at least two separate modules will easily separate upon removal of the cover from over the at least two separate modules. The cover comprises shrink wrap plastic.

Applicant submits that claim 21 is not obvious over the prior art of record. Specifically, it is not obvious to combine the references as set forth in the Office Action. Notably, the Getz et al. '358 patent includes a battery strip dispenser that is positioned in a store that allows a person to take out one battery from the dispenser, remove that one battery from the strip, and purchase a single battery. However, in the combination as set forth in the Office Action, the Office Action appears to take the container for holding the strips that allow for individual sale of batteries and place the entire thing within a shrink wrap package. Therefore, a person would not be able to purchase a single battery from the combination as set forth in the Office Action without destroying the holder for all of the batteries by removing a shrink wrap. Finally, Applicant submits that any combination of these references would not include at least two separate modules, or at least two separate modules that will easily separate upon removal of a cover from over the at least two separate modules as discussed above as any of these references include any of these features and the Källgren '920 patent and the Douglas '084 patent specifically teach away from any such combination. Accordingly, claim 21 is in condition for allowance.

### 2. Claim 41

Claim 41 defines a method of packaging batteries comprising providing at least two separate modules, with each module including a base having a first face and a second face and

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with each module further including at least one pocket extending outwardly from the first face. The method further includes placing at least one battery in each pocket and positioning the first face of at least two of the plurality of separate modules facing each other, with at least one pocket of a first one of the at least two of the at least two separate modules is located between a pair of pockets of a second one of the at least two of the at least two separate modules. The method further includes placing a cover over the at least two separate modules, wherein placing the cover comprises shrink wrapping plastic one of<sup>2</sup> the at least two separate modules.

Applicant submits that claim 41 is not obvious over the prior art of record. Specifically, it is not obvious to combine the references as set forth in the Office Action. Notably, the Getz et al. '358 patent includes a battery strip dispenser that is positioned in a store that allows a person to take out one battery from the dispenser, remove that one battery from the strip, and purchase a single battery. However, in the combination as set forth in the Office Action, the Office Action appears to take the container for holding the strips that allow for individual sale of batteries and place the entire thing within a shrink wrap package. Therefore, a person would not be able to purchase a single battery from the combination as set forth in the Office Action without destroying the holder for all of the batteries by removing a shrink wrap. Finally, Applicant submits that any combination of these references would not include at least two separate modules, or at least two separate modules that will easily separate upon removal of a cover from over the at least two separate modules as discussed above as any of these references include any of these features and the Källgren '920 patent and the Douglas '084 patent specifically teach away from any such combination. Accordingly, claim 41 is in condition for allowance.

#### **K. Withdrawn Claims 15-18 and 35-38**

Claims 15-18 and 35-38 have been withdrawn from the present application. Applicant respectfully requests rejoinder of these claims along with allowance of the claims from which

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<sup>2</sup> As discussed above, "one of" in this claim is a typographic error and should be "over." Nevertheless, the method includes shrink wrapping plastic over the separate modules and the claims already calls for placing a cover

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they depend. Accordingly, Applicant submits that claims 15-18 and 35-38 are in condition for allowance.

### VIII. Conclusion

Each claim is definite and recites features that are not disclosed in any of the cited references and it would not have been obvious to modify the cited references to include the recited features of the appealed claims. The reference upon which the Examiner relies in the Examiner's rejection of the claims does not disclose or make obvious a package or a method as claimed. Applicant's invention resolves problems and inconveniences experienced in the prior art, and therefore represents a significant advancement in the art. Applicant earnestly requests that the Examiner's rejection of claims 1-41 be reversed, and that the application be passed to allowance forthwith.

Respectfully submitted,

7/19/07  
Date

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**Appendix of Claims (35 USC §41.37(c))**

1. A battery package comprising:
  - at least two separate modules, each module including a base having a first face and a second face, each module further including at least one pocket extending outwardly from the first face;
  - at least one battery placed into each pocket; and
  - a cover placed over the at least two separate modules;
  - two of the at least two separate modules have the first faces thereof facing each other, with at least one pocket of a first one of the two of the at least two separate modules being located between a pair of pockets of a second one of the two of the at least two separate modules;
  - wherein the at least two separate modules will easily separate upon removal of the cover from over the at least two separate modules; and
  - wherein none of the modules are able to be removed from within the cover while the cover is over all of the at least two separate modules.
2. The battery package of claim 1, wherein:
  - the at least two separate modules comprise at least three separate modules.
3. The battery package of claim 1, wherein:
  - each module includes a lid over the second face of the base.
4. The battery package of claim 3, wherein:
  - the lid is transparent.
5. The battery package of claim 3, wherein:
  - the base and the lid each include perforations between each of the pockets, whereby each pocket of each module can easily be separated from a remainder of the module by tearing

the module along one of the perforations.

6. The battery package of claim 3, further including:  
a card positioned over the lid and the second face of each module.
7. The battery package of claim 1, further including:  
a card positioned over the second face of each module.
8. The battery package of claim 1, wherein:  
each pocket includes a non-rotation feature for maintaining batteries in place therein in a selected rotated position.
9. The battery package of claim 8, wherein:  
the non-rotation feature comprises at least one tab extending into the pocket, the at least one tab being configured to frictionally engage the battery placed within the pocket.
10. The battery package of claim 1, wherein:  
each of the modules are identical.
11. The battery package of claim 1, wherein:  
each module includes only four pockets.
12. The battery package of claim 1, wherein:  
each module includes only five pockets.
13. The battery package of claim 1, wherein:  
every pocket on one of the at least two modules is identical.

14. The battery package of claim 13, wherein:  
every pocket is identical.
15. The battery package of claim 1, wherein:  
at least two of the pockets have different configurations.
16. The battery package of claim 1, wherein:  
at least two of the batteries have different configurations.
17. The battery package of claim 1, wherein:  
at least one pocket includes batteries having a different configuration therein.
18. The battery package of claim 1, wherein:  
each pocket includes more than one battery therein.
19. The battery package of claim 1, wherein:  
each module includes perforations between each pocket.
20. The battery package of claim 1, wherein:  
each module includes the pockets in a single row.
21. A battery package comprising:  
at least two separate modules, each module including a base having a first face and a second face, each module further including at least one pocket extending outwardly from the first face;  
at least one battery placed into each pocket; and  
a cover placed over the at least two separate modules;  
two of the at least two separate modules have the first faces thereof facing each other,

with at least one pocket of a first one of the two of the at least two separate modules being located between a pair of pockets of a second one of the two of the at least two separate modules;

wherein the at least two separate modules will easily separate upon removal of the cover from over the at least two separate modules;

wherein the cover comprises shrink wrap plastic.

22. A method of packaging batteries comprising:

providing at least two separate modules, each module including a base having a first face and a second face, each module further including at least one pocket extending outwardly from the first face;

placing at least one battery in each pocket;

positioning the first face of at least two of the plurality of separate modules facing each other, with at least one pocket of a first one of the at least two of the at least two separate modules being located between a pair of pockets of a second one of the at least two of the at least two separate modules; and

placing a cover over the at least two separate modules;

wherein none of the modules are able to be removed from within the cover while the cover is over all of the at least two separate modules.

23. The method of packaging batteries of claim 22, further including:

placing a lid over the second face of the base of each module.

24. The method of packaging batteries of claim 23, wherein:

the lid is transparent.

25. The method of packaging batteries of claim 23, further including:

making perforations in the base and the lid between each of the pockets, whereby each

pocket of each module can easily be separated from a remainder of the module by tearing the module along one of the perforations.

26. The method of packaging batteries of claim 23, further including:  
positioning a card over the lid and the second face of each module.
27. The method of packaging batteries of claim 22, further including:  
a card positioned over the second face of each module.
28. The method of packaging batteries of claim 22, further including:  
providing each pocket with a non-rotation feature; and  
maintaining batteries in place in the pockets in a selected rotated position.
29. The method of packaging batteries of claim 28, wherein:  
the non-rotation feature comprises at least one tab extending into the pocket, and further  
including frictionally engaging the battery placed within the pocket with the at least one tab.
30. The method of packaging batteries of claim 22, wherein:  
each of the modules are identical.
31. The method of packaging batteries of claim 22, wherein:  
each module includes only four pockets.
32. The method of packaging batteries of claim 22, wherein:  
each module includes only five pockets.
33. The method of packaging batteries of claim 22, wherein:  
every pocket on one of the at least two modules is identical.

34. The method of packaging batteries of claim 33, wherein:  
every pocket is identical.
35. The method of packaging batteries of claim 22, wherein:  
at least two of the pockets have different configurations.
36. The method of packaging batteries of claim 22, wherein:  
at least two of the batteries have different configurations.
37. The method of packaging batteries of claim 22, wherein:  
at least one pocket includes batteries having a different configuration therein.
38. The method of packaging batteries of claim 22, wherein:  
each pocket includes more than one battery therein.
39. The method of packaging batteries of claim 22, further including:  
perforating each module between each pocket.
40. The method of packaging batteries of claim 22, wherein:  
each module includes the pockets in a single row.
41. A method of packaging batteries comprising:  
providing at least two separate modules, each module including a base having a first face and a second face, each module further including at least one pocket extending outwardly from the first face;  
placing at least one battery in each pocket;  
positioning the first face of at least two of the plurality of separate modules facing each other, with at least one pocket of a first one of the at least two of the at least two separate

modules being located between a pair of pockets of a second one of the at least two of the at least two separate modules; and

placing a cover over the at least two separate modules;

wherein placing the cover comprises shrink wrapping plastic one of the at least two separate modules.

**Evidence Appendix (35 USC §41.37(c))**

There was no evidence submitted during this application under 37 CFR §1.130, 1.131 or 1.132 or any evidence entered by the Examiner and replied upon by Appellant in the appeal.

**Related Proceedings Appendix (35 USC §41.37(c))**

There are no related appeals or interferences pending during this application.